

**Licensing Sub Committee A - 25 January 2022**

Minutes of the meeting of the Licensing Sub Committee A held by Zoom on 25 January 2022 at 6.30 pm.

**Present:**      **Councillors:**      Nick Wayne (Chair) and Anjna Khurana (Vice-Chair) and Phil Graham

**Councillor Nick Wayne in the Chair**

**159      INTRODUCTIONS AND PROCEDURE (Item A1)**

Councillor Nick Wayne welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined.

**160      APOLOGIES FOR ABSENCE (Item A2)**

Apologies for absence were received from Councillor Dave Poyser.

**161      DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**

Councillor Phil Graham substituted for Councillor Dave Poyser.

**162      DECLARATIONS OF INTEREST (Item A4)**

There were no declarations of interest.

**163      ORDER OF BUSINESS (Item A5)**

The order of business would be as the agenda.

**164      MINUTES OF PREVIOUS MEETING (Item A6)**

**RESOLVED:**

That the minutes of the meeting held on 18 November 2021 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

**165      SIMMONS, 105 CHARTERHOUSE STREET, EC1 - PREMISES LICENCE REVIEW (Item B1)**

The licensing officer outlined the additional papers that had been circulated following agenda publication.

The applicant stated that he lived two floors above the bar. Prior to the review application, noise from the bar could be heard 15 metres away and his living room was like a disco. He heard pounding sounds from bass in the basement up until 2am on Thursdays to Saturdays. He believed that the premises used to operate as a vacation rental which could explain why there were only two complaints previously. This was not a busy street and he had no issues with other premises leading to the

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Charterhouse. He considered that they should not have failed at the licensing objective of the prevention of public nuisance before they had started operating. He had hoped agreement would be achieved before the hearing. The licensee had arranged an acoustic engineer to make a noise assessment from the property. He had stated that he was present to assess the statutory nuisance but was not concerned about the disturbance. The applicant did not consider that music played during the test was at the maximum level. He stated that he was concerned regarding the condition that allowed ten patrons outside smoking. He considered that this would lead to further patrons congregating on the street. He also raised concerns regarding the speakers mounted on the walls of the property. He questioned the validity of the noise assessment as he did not consider that the noise levels would be those that would be used in the basement and the engineer had stated that he would not be taking a measurement from the basement.

In response to questions, the applicant stated that he had not had any issues recently except on the last Saturday when he could clearly hear sound from the bar despite having earplugs in and a pillow over his ears. He lived three floors above the basement.

The Licensing Authority stated that conditions had been agreed with the responsible authorities. She raised concerns that since Simmons had taken over the premises there had been noisy crowds outside and loud music noise when front doors had been left open. Following lockdown there had been noise complaints and officers had witnessed nuisance in the flat and bass noise in the stairwell. Crowds had not been controlled. She stated that it had improved since November and door supervisors had kept doors closed. Smokers were controlled and when the doors were closed there was only faint noise. She supported the noise conditions agreed and considered that tests should be carried out to see if there was a noise nuisance inside the flat. The noise consultant had recommended a lobby which would help reduce noise escape onto the street.

The noise officer stated that noise conditions had been agreed. There had been incidents of poor management where doors had been left open. He considered that ten smokers was a good number for a relatively small pub. Speakers should be isolated from the structure and not directly fixed to the wall.

The freeholder spoke in support of the premises licence holder. The tenancy was due to end on 30 April 2022. There had been no concerns or complaints from the other flats. Simmons were vetted and they had found the CEO proactive and professional. Simmons had spent money on the premises including the installation of an acoustic lining. He considered that additional conditions to those proposed would be disproportionate and unnecessary.

The Chair stated that the Sub-Committee considered that this was a bona fide application and the licensee's representative should spend the time addressing the other issues.

The licensee's representative stated that a reasonable compromise, which was reflected in the agreed noise conditions, needed to be found. Silence in this location would be unachievable. All conditions agreed with the licensing authority were detailed at pages 129 and 133 of the bundle. This was a premises where people went out to enjoy themselves and feel safe which was not true of every bar. The issue was noise disturbance. The owner had 21 bars and had never been reviewed. When issues were brought to his attention he started making changes immediately including reducing the numbers of smokers, lowering the volume at the front. The acoustic consultant did noise tests and lowered the bass to accepted standards. He proposed to introduce an airlock door system and to remove the roof light. A music volume policy had been introduced. These measures had already achieved an improvement and this had been recognised by the responsible authorities and the occupier of the flat directly above the premises. The applicant may not be satisfied but reasonable steps had been considered. The licensee's representative outlined the proposed noise conditions which would help prevent noise disturbance. The acoustic consultant stated that the system was controlled by a state of the art limiter. He had checked levels and made some adjustments to the basement levels. These levels could be checked anytime by the noise team. The system was tamperproof.

In summary, the applicant stated that he had suffered noise nuisance since July but was not aware that he had to make complaints to the Council. He considered that the acoustic consultant had favoured Simmons when taking the measurements. A pounding on the door would still be a noise nuisance.

The licensing authority stated that although the tenancy was due to end shortly, noise works should be carried out in order to protect future tenancies. This point was echoed by the noise team but he considered that the conditions proposed formed a reasonable framework for the premises to operate.

The freeholder would wish to have the property to be suitable for letting. He felt reassured by the additional measures. He offered to help facilitate future meetings. The licensee's representative stated that the agreed conditions were right and reasonable and in the interests of both Simmons and residents. He asked that the conditions be imposed and that the Sub-Committee not take unreasonable steps.

**RESOLVED**

That the conditions of the premises licence, in respect of Simmons, 105 Charterhouse Street, EC1, be modified as detailed below.

1. Remove conditions 1 to 4 (Outdated Conditions), 7, 10 & 11
2. CCTV shall be installed, operated and maintained at all times that the premises is open for licensable activities, so as to comply with the following criteria;
  - a) The licensee will ensure that the system is checked every two weeks to ensure that the system is working properly and that the date and time are correct. A record of these checks, showing the date and time of the person checking, shall be kept and made available to police or authorised council officers on request;

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- b) The police must be informed if the system will not be operating for longer than one day of business for any reason;
  - c) One camera will show a close-up of the entrance to the premises, to capture a clear, full-length image of anyone entering;
  - d) The system will provide coverage of any exterior part of the premises accessible to the public;
  - e) The system shall record in real time and recordings will be date and time stamped;
  - f) Recordings will be kept for a minimum of 31 days and downloaded footage will be provided free of charge to police or authorised council officers on request, (subject to the Data Protection Act 1998) within 24 hours of any request, and
  - g) At all times the premises are open for licensable activity, there will be a person on the premises who can operate the system sufficiently to allow police or authorised council officers to view footage on request.
3. Clear and prominent signage will be displayed at the premises highlighting:
- a) CCTV in operation;
  - b) Challenge 25 Proof of Age Scheme in operation;
  - c) Residential Area: Please be respectful of our neighbours and leave quietly;
  - d) Co-operation with any premises search policy in operation is an absolute condition of entry; and
  - e) Current contact telephone number for the DPS or a manager on duty.
4. An incident log shall be maintained at the premises, and made available to the Police or any authorised officer upon request. All entries will include time/date/name of person making entry. Said log will record the following;
- a) All crimes reported to the venue;
  - b) All ejections of patrons;
  - c) Any complaints received concerning crime and disorder;
  - d) Any incidents of disorder either in or directly outside the venue;
  - e) All seizures of drugs or offensive weapons;
  - f) Any faults in the CCTV system;
  - g) Any visit by a relevant authority or emergency service; and
  - h) Any refusal of alcohol sales.
5. In the event that any assault or serious crime is (or appears to have been), committed on the premises, the management will immediately ensure that;
- a) The police (and, where appropriate, the London Ambulance Service) are called without delay;
  - b) All safe and practicable steps are taken to apprehend any suspects pending the arrival of the police; and
  - c) All safe and practicable steps are taken to preserve any identified crime scene, so as to enable a full forensic investigation to be carried out by the police.

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6. There shall be at least 1 personal licence holder on duty on the premises at all times when open for licensable activities.
7. A fully equipped first aid box will be available at the premises at all times.
8. There shall be no unaccompanied children under 18 on the premises at any time and no under 16 year olds in the premises after 21:00 save for those attending a pre-booked private event.
9. A fire safety risk assessment shall be completed as per government guidelines on an annual basis (Regulatory Reform (Fire Safety) Order 2005). Maximum venue capacity will be maintained at a level dictated by said risk assessment in line with the legislation.
10. All staff members engaged in selling alcohol on the premises shall, upon induction and every 12 months thereafter, receive training pertinent to the Licensing Act.  
All such training shall be fully documented, signed by the employee, and kept at the premises for inspection by Police or other authorised officers.
11. Staff training shall include, but not be limited to:
  - a) The premises age verification policy;
  - b) Dealing with refusal of sales;
  - c) Identifying attempts by intoxicated persons to purchase alcohol; and
  - d) Identifying signs of intoxication.
12. The licensee shall train and instruct the management and staff to prevent the admission of, and ensure the immediate and orderly departure of:
  - a) Any and all persons who appear to be drunk and/or disorderly; and
  - b) Any and all persons displaying signs of other substance abuse.
13. Noise or vibration must not emanate from the premises so as to cause a nuisance to nearby properties.
14. In the event of a noise/nuisance complaint substantiated by an authorised officer, the licensee shall take appropriate measures in order to prevent any recurrence.
15. In the event of noise nuisance being established, the licensee shall appoint an acoustic consultant accredited by the Institute of Acoustics or the Association of Noise Consultants to install an entertainment noise control system and come to agreements with the Council regarding maximum levels of amplified sound at the premises. If this licence condition is required:
  - The agreed maximum levels of amplified sound shall be expressed on the premises licence; and
  - The entertainment noise control system shall be monitored, checked and calibrated as necessary, so that the levels approved by the Council, are not exceeded.

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16. The controls for the entertainment noise control system shall be located in a secure, lockable cupboard or similar location. The entertainment noise control system is to be independent of control by persons other than the licensee. Access to the entertainment noise control system is to be restricted to the Licensee or a designated manager.
17. No more than 10 patrons, at any one time, shall use the frontage of the premises to smoke after 22:00hrs until closing. Signage shall be displayed to advise customers of this.
18. After 22:00hrs, customers will not be permitted to take drinks outside of the premises onto the steps or the pavement in open containers.
19. Customers will not be allowed or encouraged to congregate in the entrance/exit of the premises except in an emergency.
20. The outside of the premises shall be regularly monitored to ensure that noise levels from patrons do not cause a nuisance to any nearby residents.
21. The premises licence holder shall ensure that any patrons smoking outside the premises do so on an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
22. Cigarette bins will be provided to encourage smokers to dispose of their cigarettes in a safe manner.
23. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
24. Prominent, clear and legible notices must be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
25. All doors and windows will remain closed from 23:00 hours, except for access or egress.
26. All speakers will be positioned as to face away from doors or windows.
27. All speakers will be mounted away from walls adjacent to residential properties.
28. The delivery of licensable goods to the premises shall be restricted to the hours between 07:00 and 23:00 Monday-Saturday. No deliveries of licensable goods to the premises shall be made on a Sunday or Bank Holiday.
29. The collection of refuse shall be restricted to the hours between 07:00 and 23:00 Monday-Saturday. No waste collections shall be made on a Sunday or Bank Holiday.
30. The outside frontage shall be swept and cleared of any rubbish and smoking litter associated with the business towards the end of trade each evening.

31. Noise and/or Odour from any flue used for the dispersal of cooking smells serving the building shall not cause a nuisance to the occupants of any properties in the vicinity. Any filters, ducting and extract fan shall be cleaned and serviced regularly.
32. Exterior lighting shall be directed away from residential properties.
33. Additional condition imposed by Sub-Committee:-

**That a timetable be agreed with the licensing authority regarding the installation of an airlock door.**

### **REASONS FOR DECISION**

This meeting was facilitated by Zoom.

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The Sub-Committee noted the noise nuisance experienced by the applicant and the other evidence submitted to the Sub-Committee of nuisance. The Sub-Committee also noted the steps taken by the licensee to address the noise nuisance and to implement changes at the premises in advance of the review hearing.

The Sub-Committee noted that the licensee had agreed conditions with the police and the noise team. The licensing authority confirmed that nuisance had been observed at the premises but that since the end of November 2021 things had started to get better. The licensing authority supported the suggested noise conditions and the proposed additional works to the front entrance to the premises.

The Sub-Committee took into account licensing policies 22 and 29. The Licensing Sub-Committee was satisfied that appropriate restrictions and controls should be introduced at the premises. Furthermore the Sub-Committee was satisfied that the required measures could be achieved by the imposition of conditions. The Sub-Committee considered what steps would be needed to ensure the promotion of the licensing objectives and was satisfied that it would be proportionate to impose conditions and that no other steps would be required.

The Sub-Committee decided that it was reasonable to impose the additional condition regarding the airlock door as the licensee had identified that works were proposed and the licensing authority had submitted that this additional measure would promote the licensing objective to prevent public nuisance.

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### **NOCI, 4-6 ISLINGTON GREEN, N1 - NEW PREMISES LICENCE (Item B2)**

The licensing officer introduced the applicants and stated that there were no local residents in attendance. It was confirmed that the interested parties had been sent the notice of hearing and one resident had responded that the representation remained but they would not be attending.

The applicant's representative stated that this was a new licence and it was the intention to surrender the licence if the application was granted. The hours were considerably less than the current licence and framework hours had been applied for. There was also no application for music. This was a restaurant and not a bar. Conditions had been agreed. There were substantially more conditions proposed for this licence and they focussed on the prevention of public nuisance and crime and disorder. Off sales would be restricted to sealed containers and it was not the intention to permit drinking outside the premises.

In response to questions, the designated premises supervisor stated that they may look to deliveries in the future. She would need to look at the issues regarding non-motorised deliveries but she stated that this was not a high traffic area. Pasta meals would start from £8 and there was a limited bar offer of beer, wine and a few cocktails. The most expensive pasta dish was £16. There was a big focus on food and ingredients and there was no vertical drinking. Any deliveries would be based around a food kit offer rather than a meal. It was not the intention to sell alcohol only as a takeaway. A minimum spend of £10 for takeaways was not considered unrealistic. Delivery conditions numbers 24-26 had been proposed.

**RESOLVED**

- 1) That the application for a new premises licence, in respect of Noci, 4-6 Islington Green N1, be granted to allow:-
  - a) The supply of alcohol, on and off supplies, Sunday to Wednesdays from 8am until 11pm and Thursdays to Saturdays from 8am until midnight.
  - b) The provision of late night refreshment, Thursdays to Saturdays from 11pm until midnight.
  - c) The premises to be open to the public Sunday to Wednesday from 8am to 11.30pm and Thursdays to Saturdays from 8am until half past midnight.
  - d) To allow non-standard timing for authorised activities from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.
  
- 2) That conditions detailed on pages 84 to 86 of the agenda be applied to the licence with the following amendments:-

Condition 24. The licensee shall ensure that no internal combustion engine vehicles are used for deliveries from the premises.

Deletion of condition 25.

Condition 26 to read. Alcohol shall not be sold or supplied via delivery from the premises, otherwise than to persons purchasing food and is ancillary to their meal with a minimum spend of £10.00

**REASONS FOR DECISION**

This meeting was facilitated by Zoom.

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The Sub-Committee took into consideration Licensing Policies 2 & 3. The premises fall within the Angel and Upper Street cumulative impact area. Licensing policy 3 creates a rebuttable presumption that applications for the grant or variation of premises licences which are likely to add to the existing cumulative impact will normally be refused following the receipt of representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

The Sub-Committee took into consideration Licensing Policy 4. The Council has adopted a special policy relating to cumulative impact in relation to shops and other premises selling alcohol for consumption off the premises. Licensing policy 4 creates a rebuttable presumption that applications for the grant or variation of premises licences which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, following the receipt of representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

Three local resident objections had been received. There had been representations from the police and the noise team. Conditions had been agreed with both responsible authorities.

The Sub-Committee noted that the hours sought were within the framework hours specified in licensing policy 6.

The Sub-Committee heard evidence that the applicant currently held a licence for the premises with more extensive hours for licensable activities. The Sub-Committee noted that the applicant would surrender the current licence if the application was granted. The Sub-Committee also noted that any off sales would be in sealed containers only. The applicant submitted that they were considering deliveries from the premises in the future and that any alcohol sold would be ancillary to food and that they were happy to see a minimum spend imposed as part of the conditions.

The Sub-Committee was satisfied that the applicant had demonstrated that the premises would not have a negative cumulative impact on the licensing objectives and that it would be reasonable and proportionate to grant the licence subject to conditions. The Sub-Committee was satisfied that the operating schedule demonstrated high standards of management.

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The Sub-Committee concluded that it would be reasonable and proportionate to require the applicant to provide off sales by means of only non-motorised vehicles to ensure that the licensing objective to prevent public nuisance would be promoted.

The meeting ended at 8.20 pm

**CHAIR**